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Report of the International Law Commission on the work of its fifty-first session

Report of the Sixth Committee

Rapporteur: Mr. Joško **Klisović** (Croatia)

I. Introduction

1. At its 3rd plenary meeting, on 17 September 1999, the General Assembly, on the recommendation of the General Committee, decided to include in the agenda of its fifty-fourth session the item entitled "Report of the International Law Commission on the work of its fifty-first session" and to allocate it to the Sixth Committee.

2. The Sixth Committee considered the item at its 15th to 28th, 35th and 36th meetings, from 25 to 29 October and 1 to 5 November and on 18 and 19 November 1999. The views of the representatives who spoke during the Committee's consideration of the item are reflected in the relevant summary records (A/C.6/54/SR.15-28 and 35 and 36).

3. For its consideration of the item, the Committee had before it the report of the International Law Commission on the work of its fifty-first session.[1]

4. The Chairman of the International Law Commission at its fifty-first session introduced the report of the Commission: chapters I to IV at the 15th meeting, on 25 October; chapter VII at the 18th meeting, on 27 October; chapter V at the 21st meeting, on 29 October; chapter VI at the 24th meeting, on 2 November; and chapters VIII to X at the 25th meeting, on 3 November (see A/C.6/54/SR.15, 18, 21, 24 and 25). At the 28th meeting, on 5 November, the Chairman of the Commission made a statement in the light of the debate (see A/C.6/54/SR.28).

[1] *Official Records of the General Assembly, Fifty-fourth Session, Supplement No. 10* and corrigenda (A/54/10 and Corr.1 and 2).

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II. Consideration of proposals

A. Draft resolution A/C.6/54/L.7/Rev.1 and Corr.1

5. At the 36th meeting, on 19 November, the representative of Colombia and Vice-Chairman of the Committee introduced a draft resolution entitled "Report of the International Law Commission on the work of its fifty-first session" (A/C.6/54/L.7/Rev.1 and Corr.1).

6. At the same meeting, the Committee also had before it a statement of the programme budget implications of draft resolution A/C.6/54/L.7/Rev.1 and Corr.1, submitted by the Secretary-General in accordance with rule 153 of the rules of procedure of the General Assembly (A/C.6/54/L.21).

7. Also at the same meeting, the Committee voted on draft resolution A/C.6/54/L.7 and Corr.1 as follows:

(a) Operative paragraph 10 was adopted by 111 votes to 1, with 4 abstentions;

(b) Draft resolution A/C.6/54/L.7/Rev.1 and Corr.1, as a whole, was adopted without a vote (see para. 11, draft resolution I).

8. Before the adoption of the draft resolution, statements were made by the representatives of Finland and Côte d'Ivoire; after the adoption of the draft resolution, a statement in explanation of vote was made by the representative of the United States of America and statements in explanation of position were made by the representatives of Canada and the United Republic of Tanzania (see A/C.6/54/SR.36).

B. Draft resolution A/C.6/54/L.6 and Corr. 1

9. At its 35th meeting, on 18 November, the representative of New Zealand and Vice-Chairman of the Committee introduced a draft resolution entitled "Nationality of natural persons in relation to the succession of States" (A/C.6/54/L.6 and Corr.1).

10. At the same meeting, the Committee adopted draft resolution A/C.6/54/L.6 and Corr.1 without a vote (see para. 11, draft resolution II).

III. Recommendations of the Sixth Committee

11. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolutions:

Draft resolution I
Report of the International Law Commission on the work of its fifty-first session

The General Assembly,

Having considered the report of the International Law Commission on the work of its fifty-first session,[2]

[2] Ibid.

Emphasizing the importance of furthering the progressive development of international law and its codification as a means of implementing the purposes and principles set forth in the Charter of the United Nations and in the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations,[3]

Emphasizing also the role of the International Law Commission in the fulfilment of the objectives of the United Nations Decade of International Law,

Recognizing the desirability of referring legal and drafting questions to the Sixth Committee, including topics that might be submitted to the International Law Commission for closer examination, and of enabling the Sixth Committee and the Commission further to enhance their contribution to the progressive development of international law and its codification,

Recalling the need to keep under review those topics of international law which, given their new or renewed interest for the international community, may be suitable for the progressive development and codification of international law and therefore may be included in the future programme of work of the International Law Commission,

Welcoming the holding of the International Law Seminar, and noting with appreciation the voluntary contributions made to the United Nations Trust Fund for the International Law Seminar,

Stressing the usefulness of structuring the debate on the report of the International Law Commission in the Sixth Committee in such a manner that conditions are provided for concentrated attention to each of the main topics dealt with in the report,

Wishing to enhance further the interaction between the Sixth Committee as a body of governmental representatives and the International Law Commission as a body of independent legal experts, with a view to improving the dialogue between the two organs,

1. *Takes note* of the report of the International Law Commission on the work of its fifty-first session;[2]

2. *Expresses its appreciation* to the International Law Commission for the work accomplished at its fifty-first session, in particular with respect to the topic "Jurisdictional immunities of States and their property" and the completion of the second reading of the draft articles on nationality of natural persons in relation to the succession of States, and notes that the Commission has completed its work on the topic "Nationality in relation to the succession of States";

3. *Draws the attention* of Governments to the importance for the International Law Commission of having their views on the various aspects involved in the topics on the agenda of the Commission, in particular on all the specific issues identified in chapter III of its report;

4. *Reiterates its invitation* to Governments to submit comments and observations in writing by 1 January 2000 on the draft articles on international liability for injurious consequences arising out of acts not prohibited by international law (prevention of transboundary damage from hazardous activities), and invites them, within the context of the preceding paragraph, to respond in writing by 1 March 2000 to the questionnaire on unilateral acts of States circulated by the Secretariat to all Governments on 30 September 1999;

[3] Resolution 2625 (XXV), annex.

5. *Also reiterates its invitation* to Governments to submit the most relevant national legislation, decisions of domestic courts and State practice relevant to diplomatic protection in order to assist the International Law Commission in its future work on the topic "Diplomatic protection";

6. *Recommends* that, taking into account the comments and observations of Governments, whether in writing or expressed orally in debates in the General Assembly, the International Law Commission should continue its work on the topics in its current programme;

7. *Takes note* of paragraph 608 of the report of the Commission with regard to the procedure to be followed with respect to the topic "International liability for injurious consequences arising out of acts not prohibited by international law", and requests the Commission to resume consideration of the liability aspects of the topic as soon as the second reading of the draft articles on prevention is finalized, taking into account developments in international law and comments by Governments;

8. *Also takes note* of the consideration by the International Law Commission of its long-term programme of work,[4] and encourages the Commission to proceed with the selection of new topics for its next quinquennium corresponding to the wishes and preoccupations of States and to present possible outlines for new topics and information related thereto in order to facilitate decision thereon by the General Assembly;

9. *Welcomes with appreciation* the steps that have been taken by the International Law Commission in relation to its internal matters to enhance its efficiency and productivity, and invites the Commission to continue taking such measures, taking into consideration the discussion held by the General Assembly;

10. *Decides*, without prejudice to any future decision, that the next session of the Commission will be held at the United Nations Office at Geneva from 1 May to 9 June and from 10 July to 18 August 2000;

11. *Requests* the International Law Commission to implement arrangements in accordance with paragraph 639 of its report;

12. *Stresses* the desirability of enhancing dialogue between the International Law Commission and the Sixth Committee, and in this context takes note with appreciation of the comments made by the Commission in paragraphs 612 to 617 of its report;

13. *Requests* the International Law Commission to continue to pay special attention to indicating in its annual report, for each topic, any specific issues on which expressions of views by Governments, either in the Sixth Committee or in written form, would be of particular interest in providing effective guidance for the Commission in its further work;

14. *Also requests* the International Law Commission to continue the implementation of article 16, paragraph (e), and article 26, paragraphs 1 and 2, of its statute in order to further strengthen cooperation between the Commission and other bodies concerned with international law, having in mind the usefulness of such cooperation, and in that regard takes note with appreciation of comments made by the Commission in paragraphs 618 to 632 of its report;

15. *Notes* that consulting with national organizations and individual experts concerned with international law may assist Governments in considering whether to make

[4] See *Official Records of the General Assembly, Fifty-fourth Session, Supplement No. 10* and corrigenda (A/54/10 and Corr.1 and 2), chap. X, sect. A.2.

comments and observations on drafts submitted by the International Law Commission and in formulating their comments and observations;

16. *Reaffirms* its previous decisions concerning the role of the Codification Division of the Office of Legal Affairs of the Secretariat and those concerning the summary records and other documentation of the International Law Commission;

17. *Takes note* of the inclusion of information about the work of the International Law Commission in its Web site;[5]

18. *Expresses the hope* that the International Law Seminar will continue to be held in connection with the sessions of the International Law Commission and that an increasing number of participants, in particular from developing countries, will be given the opportunity to attend those seminars, and appeals to States to make urgently needed voluntary contributions to the Trust Fund;

19. *Requests* the Secretary-General to provide the International Law Seminar with adequate services, including interpretation, as required, and encourages him to continue considering ways to improve the structure and content of the Seminar;

20. *Also requests* the Secretary-General to forward to the International Law Commission, for its attention, the records of the debate on the report of the Commission at the fifty-fourth session of the General Assembly, together with such written statements as delegations may circulate in conjunction with their oral statements, and to prepare and distribute a topical summary of the debate, following established practice;

21. *Requests* the Secretariat to circulate to States, as soon as possible after the conclusion of the Commission's session, chapter II of its report containing a summary of the work of that session and the draft articles adopted on either first or second reading by the Commission;

22. *Recommends* that the debate on the report of the International Law Commission at the fifty-fifth session of the General Assembly commence on 23 October 2000.

Draft resolution II
Nationality of natural persons in relation to the succession of States

The General Assembly,

Having considered chapter IV of the report of the International Law Commission on the work of its fifty-first session,[6] which contains final draft articles on nationality of natural persons in relation to the succession of States,

Noting that the International Law Commission decided to recommend the draft articles to the General Assembly for their adoption in the form of a declaration of the General Assembly,

1. *Expresses its appreciation* to the International Law Commission for its valuable work on nationality of natural persons in relation to the succession of States and to the Special Rapporteur and the Chairman of the Working Group for their contribution to that work;

[5] The Internet address of the International Law Commission is www.un.org/law/ilc/index.htm.

[6] *Official Records of the General Assembly, Fifty-fourth Session, Supplement No. 10* and corrigenda (A/54/10 and Corr.1 and 2).

2. *Decides* to include in the provisional agenda of its fifty-fifth session an item entitled "Nationality of natural persons in relation to the succession of States", with a view to the consideration of the draft articles and their adoption as a declaration at that session;

3. *Invites* Governments to submit subsequently comments and observations on the question of a convention on nationality of natural persons in relation to the succession of States, with a view to the General Assembly considering the elaboration of such a convention at a future session.